

**MICHAEL DAWE,**  
**Plaintiff**

**v.**

**C.A. No. 04-40192**

**CAPITAL ONE BANK,**  
**Defendant.**

**DEFENDANT'S MOTION FOR LEAVE TO FILE  
BRIEF REPLY TO PLAINTIFF'S MEMORANDUM IN  
RESPONSE TO ORDER TO SHOW CAUSE**

Defendant Capital One Bank ("Capital One") moves for leave to file, on or before May 4, 2007, a brief reply to plaintiff's memorandum in response to the Court's order to show cause as to why the plaintiff's federal law claim, to the extent it is brought pursuant to 15 U.S.C. § 1681s-2(a), and the plaintiff's state law claims should not be dismissed for failure to state a claim upon which relief can be granted. Capital One believes that a brief reply will assist the Court in determining whether the foregoing claims should be dismissed for the reasons stated in the Court's Memorandum and Order dated April 13, 2007.

Respectfully submitted,

**CAPITAL ONE BANK**

By its attorney,

/s/ Bruce D. Berns

Bruce D. Berns (BBO# 551010)  
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Date: April 26, 2007

I certify that the above document was filed electronically on April 26, 2007, which transmission constitutes, pursuant to LR. D. Mass., 5.4(c), service of the foregoing document upon registered ECF users, including counsel for the plaintiff.

/s/ Bruce D. Berns

Bruce D. Berns (BBO# 551010)